HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.2552 of 2002

Date: 06-03-2007.

Between :

M/s.Gattu Mallaiah & Sons, Adoni,
rep. by its Managing Partner.

.....Petitioner

And

The Deputy Commissioner (CT), Kurnool & another.

.....Respondents.

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.2552 of 2002

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

With regard to the assessment years 1989-90 to 1993-94, a penalty was imposed on petitioner for allegedly mis-using 'C' declaration forms. The assessee filed appeals before the appellate authority, which were allowed. 2nd respondent revised the order passed by the appellate authority and appeals were filed again by the petitioner before the appellate Tribunal. In the meantime, a scheme came into operation by virtue of an ordinance, which later became an Act being Act No.41 of 2001, known as 'Andhra Pradesh Sales Tax (Settlement of disputes) Act, 2001 (for short 'the Settlement Act') and the petitioner approached the authority concerned for settlement of the dispute. An order was passed by the competent authority on 08.11.2001 imposing 10% penalty for mis-use of 'C' declaration forms, which was paid by the petitioner. Thereafter, the authority who settled the claim

suo motu, passed another order on 22.11.2001, revoking the order of settlement. This order is challenged by way of this writ petition mainly on two grounds. Firstly, it is contended by the learned counsel for petitioner that the order has been passed behind his back without even giving him an opportunity of being heard. The second contention is that under the scheme of the amended Act, there is no power with respondent No.1 to revoke an order of settlement.

We have heard learned counsel for the parties and gone through the counter affidavit. Nowhere in the counter affidavit it is stated that any notice was issued to the petitioner before impugned order was passed. Since valuable rights had been accrued to the petitioner by the Settlement Act and in fact penalty had also been paid by the petitioner after the Settlement Act was enacted, therefore, in no circumstances, the 1st respondent could have passed the order even without issuing a show cause notice to the petitioner.

On this ground alone, we allow the writ petition and remand the matter back to the authority to consider it afresh after giving an opportunity to the petitioner to putforth his case. The contention that the 1st respondent has no jurisdiction or authority under the amended Act to revise his own order of settlement may also be taken by

the petitioner, if so advised, before the authority, who may decide the question in accordance with law. The matter may be disposed of by the authority within a period of six months from the date of receipt of a copy of this order.

BILAL NAZKI, J

6th March 2007.

NOOTY RAMAMOHANA

RAO, J
ajr